

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 784 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO  
1 & 2 : YES; 3 to 5 : NO

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HASMUKHBHAI N KOTAK

Versus

STATE OF GUJARAT

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Appearance:

MS SUMAN PAHWA for Petitioner

MS HANSABEN PUNANI AGP for Respondent No. 1, 2, 3

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/08/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

2. The petitioner challenges the order of preventive detention dated 19th December, 1998 made by the Commissioner of Police, Rajkot City, under the powers conferred upon him under Sub-section 1 of Section 3 of the Gujarat Prevention of Anti-Social Activities Act,

1985 [hereinafter referred to as, 'the Act'].

3. The petitioner, a resident of Rajkot City, is alleged to have perpetrated fraud upon the Banks and to have duped the Banks of Rs. 40,74,000/=. In view of the above referred fraud perpetrated by the petitioner, six offences punishable under Chapter XVII of the Indian Penal Code have been registered against the petitioner. The petitioner is, therefore, held to be a habitual offender and for that matter, a dangerous person within the meaning of Section 2 (c) of the Act. Besides, two individuals have given statements in respect of the various frauds alleged to have been committed by the petitioner.

4. The petitioner appears to have committed grave financial offences which require a trial and if proved an appropriate punishment. However, none of the activities of the petitioner can be said to have affected the public order. The activities of the petitioner may be a grave problem of law and order but are far from being prejudicial to the maintenance of public order. The power of preventive detention conferred under the Act, therefore, could not have been invoked against the petitioner. The impugned order is, therefore, made without the authority of law and is untenable.

5. Petition is, therefore, allowed. The order dated 19th December, 1998; Annexure-A to the petition, is quashed and set-aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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Prakash\*